

FILED
IN CLERK'S OFFICEUNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

2004 OCT 13 P 1:52

UNITED STATES OF AMERICA)
Petitioner)
)
V.)
)
RICHARD EARLY III)
)
Respondent)

U.S. DISTRICT COURT
DISTRICT OF MASS.

M.B.D. No.

04 MBD 10296

**PETITION TO ENFORCE
INTERNAL REVENUE SERVICE SUMMONS**

The United States of America, on behalf of its agency, the Internal Revenue Service, and by its attorney, Michael Sullivan, United States Attorney for the District of Massachusetts, state that:

1. This proceeding for the enforcement of an Internal Revenue Service Summons is brought pursuant to sections 7402(b) and 7604(a) of the Internal Revenue Code of 1986, 26 U.S.C. sections 7402(b) and 7604(a).
2. Michelle Nicolosi is a Revenue Officer of the Internal Revenue Service authorized to issue summonses under the Internal Revenue Laws.
3. The respondent, Richard Early III resides or is found at 539 Boxford Road, Bradford, Massachusetts 01833 within the jurisdiction of this Court.
4. Section 6020(b) of the Internal Revenue Code of 1986, 26 U.S.C., authorizes the Secretary of the Treasury, acting by his agents and employees in the Internal Revenue Service, to make a return from his own knowledge and from such information as he can obtain through testimony or otherwise for a person who fails to file a return. For the purpose of making such a return, Section 7602 authorizes the Secretary to issue a Summons to the person to appear at a time and place named in the Summons, to produce such books, papers, records or other data, and to testify, as may be relevant or material to making the return.
5. On February 26, 2004, Revenue Officer Michelle Nicolosi issued, pursuant to Section 7602 of the Internal Revenue Code of 1986, a summons to Richard Early III, directing him to appear before Revenue Officer Michelle Nicolosi at One Montvale Avenue Suite 204, Stoneham, MA 02180 at 1:00 P.M. on March 18, 2004 and to produce for examination (and give testimony relating to) documents and financial records for the year(s) ending December 31, 1993, December 31, 1994, December 31, 1995, December 31, 1996, December 31, 1997, December 31, 1998, December 31, 1999, December 31, 2000 and December 31, 2001.

A copy of the Summons is attached to this Petition as "Exhibit A". On February 26, 2004, Revenue Officer Michelle Nicolosi served the Summons on Richard Early III by leaving an attested copy of the summons at the last and usual place of abode of the person to whom it was directed. Revenue Officer Michelle Nicolosi signed a certification on the face of the copy of the Summons served that it is a true and correct copy of the original.

6. Richard Early III has complied with the Summons with respect to the years ending December 31, 2000 and December 31, 2001, but has failed and refuses to comply with respect to the years ending December 31, 1993, December 31, 1994, December 31, 1995, December 31, 1996, December 31, 1997, December 31, 1998 and December 31, 1999.

7. The records sought by the Summons are not now in the possession of the Internal Revenue Service, and their production by Richard Early III for examination by an officer of the Internal Revenue Service is necessary to make a federal income tax return (s) for the year(s) ending December 31, 1993, December 31, 1994, December 31, 1995, December 31, 1996, December 31, 1997, December 31, 1998 and December 31, 1999.

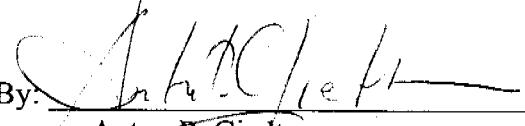
WHEREFORE, the petitioners pray that:

1. Richard Early III be ordered to show cause, if any he has, why he should not obey the Summons;
2. Richard Early III be ordered to obey the Summons at a time and place to be fixed by Revenue Officer Michelle Nicolosi or by any other officer of the Internal Revenue Service authorized to examine the records and take testimony; and
3. The cost of this action to be awarded to the United States.

By their attorney,

MICHAEL J. SULLIVAN
United States Attorney

By:


Anton P. Giedt

Assistant U.S. Attorney
1 Courthouse Way - Suite 9200
Boston, MA 02210
(617) 748-3282



Summons

In the matter of Richard Early III, Po Box 5222, Bradford, MA 01835-0222

Internal Revenue Service (Division): Small Business/Self Employed

Industry/Area (name or number): Small Business/Self Employed Area: 19

Periods See attachment for Period information

The Commissioner of Internal Revenue

To Richard Early III

At 539 Boxford Road, Bradford, MA 01833

You are hereby summoned and required to appear before Michelle Nicolosi, an officer of the Internal Revenue Service, to give testimony and to bring with you and to produce for examination the following books, records, papers, and other data relating to the tax liability or the collection of the tax liability or for the purpose of inquiring into any offense connected with the administration or enforcement of the internal revenue laws concerning the person identified above for the periods shown.

All documents and records in your possession or control reflecting the receipt of taxable income by you for the year(s) See attachment for Period information, including but not limited to: statement of wages for the year(s) See attachment for Period information, statements regarding interest or dividend income for the year(s) See attachment for Period information; employee earnings statements for the year(s) See attachment for Period information; records of deposits to bank accounts during the year(s) See attachment for Period information; and any and all other books, records, documents, and receipts regarding wages, salaries, tips, fees, commissions, and any other compensation for services (including gains from dealings in property, interest, rental, royalty and dividend income, alimony, annuities, income life insurance policies and endowment contracts, pensions, income from the discharge of indebtedness, distributive shares of partnership gross income, and income from an estate or trust), so that Federal Income Tax liability for the year(s) See attachment for Period information (for which year(s) no return have been made) may be determined.

Do not write in this space

Business address and telephone number of IRS officer before whom you are to appear:

One Montvale Avenue, Suite 204, Stoneham, MA 02180 (781) 835-4217

Place and time for appearance at: One Montvale Avenue, Suite 204, Stoneham, MA 02180

on the 18th day of March at 1 o'clock p m.

Issued under authority of the Internal Revenue Code this 26th day of February, 2004

 **IRS**
Department of the Treasury
Internal Revenue Service
www.irs.gov

Form 2039(Rev. 12-2001)
Catalog Number 21405J

Signature of Issuing Officer

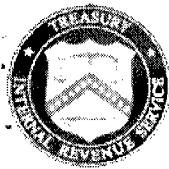
Revenue Officer

Title

Signature of Approving Officer (if applicable)

Title

Original -- to be kept by IRS



Service of Summons, Notice and Recordkeeper Certificates

(Pursuant to section 7603, Internal Revenue Code)

I certify that I served the summons shown on the front of this form on:

Date

01/26/04

Time

11:11 AM

How Summons Was Served

1. I certify that I handed a copy of the summons, which contained the attestation required by § 7603, to the person to whom it was directed.
2. I certify that I left a copy of the summons, which contained the attestation required by § 7603, at the last and usual place of abode of the person to whom it was directed. I left the copy with the following person (if any): Taped to front door
3. I certify that I sent a copy of the summons, which contained the attestation required by § 7603, by certified or registered mail to the last known address of the person to whom it was directed, that person being a third-party recordkeeper within the meaning of § 7603(b). I sent the summons to the following address:

Signature

Michelle M. Colm

Title

Revenue Officer

4. This certificate is made to show compliance with IRC Section 7609. This certificate does not apply to summonses served on any officer or employee of the person to whose liability the summons relates nor to summonses in aid of collection, to determine the identity of a person having a numbered account or similar arrangement, or to determine

whether or not records of the business transactions or affairs of an identified person have been made or kept.

I certify that, within 3 days of serving the summons, I gave notice (Part D of Form 2039) to the person named below on the date and in the manner indicated.

Date of giving Notice:

Time:

Name of Noticee:

Address of Noticee (if mailed):

How Notice Was Given

<ol style="list-style-type: none"> <input type="checkbox"/> I gave notice by certified or registered mail to the last known address of the noticee. <input type="checkbox"/> I left the notice at the last and usual place of abode of the noticee. I left the copy with the following person (if any). 	<ol style="list-style-type: none"> <input type="checkbox"/> I gave notice by handing it to the noticee. <input type="checkbox"/> In the absence of a last known address of the noticee, I left the notice with the person summonsed. <input type="checkbox"/> No notice is required.
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Signature

Title

I certify that the period prescribed for beginning a proceeding to quash this summons has expired and that no such proceeding was instituted or that the noticee consents to the examination.

Signature

Title

In the matter of Richard Early III

Period information: December 31, 1993; December 31, 1994; December 31, 1994; December 31, 1995; December 31, 1996; December 31, 1997; December 31, 1998; December 31, 1999, December 31, 2000; December 31, 2001